

BOARD OF APPEALS CASE NO. 5026

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BEFORE THE

APPLICANT: Robert Burleson

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ZONING HEARING EXAMINER

**REQUEST: Variance to allow an existing
shed 15 feet high; 315 Barksdale Road,
Joppa**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 3/1/00 & 3/8/00

HEARING DATE: April 19, 2000

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Record: 3/3/00 & 3/10/00

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Robert Burleson, is requesting a variance to Section 267-26(C)(1) of the Harford County Code to allow an existing shed (approximately 15 feet high) to exceed the height of the principal structure (approximately 13 feet 3 inches in height) in an R3 Urban Residential/Community Development Project (CDP) District.

The property is located at 315 Barksdale Road, Joppa, in the First Election District. The parcel is more specifically identified as Parcel 207, in Grid 4F, on Tax Map 64. The property contains approximately .267 acres, all of which is zoned R3/CDP.

Mr. Burleson appeared and testified that he is requesting the variance to allow a shed that he built which is 18 inches higher than the height of his one-story home to remain on the property. Mr. Burleson indicated that he built the shed for additional storage of personal items for the home, including lawn equipment and furniture, a snow-thrower, holiday ornaments, etc. He stated that there is no attic or other adequate storage space available in his home in which to store these items. In response to questioning by the hearing examiner, Mr. Burleson testified that there is nothing different or unique about his property that would require a shed to be built taller than the home, although he did note that the property slopes upward slightly towards the back, which makes the shed appear taller in comparison to the house. He constructed the shed with a shingled roof and siding to fit in with other homes in the neighborhood.

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The Staff Report submitted by the Department of Planning and Zoning indicates that the shed is actually 21 inches, or almost two feet, higher than the house and that it appears to be much taller than the house because of the difference in elevation on the lot. The parcel is a corner lot, so the shed is visible from both Barksdale Drive as well as the adjacent street known as Bradley Road. The Department did not make a recommendation regarding the variance request, although it did recommend certain conditions if the variance is granted.

Ms. Mary Focus, 826 Bradley Road, Joppa, appeared and testified in opposition to the Applicant's request. Ms. Focus lives adjacent to the Applicant, immediately behind the subject property. Ms. Focus testified that she has a two-story home and that the existing shed actually obstructs the view from her second-story bedroom window. She believes that the view of the shed will reduce her property value, as well as her enjoyment of her property. Ms. Focus introduced six photographs into evidence, including several which clearly show the view from her bedroom window, as well as views from other areas on her property. She noted that the Applicant's fence, located only a few feet from the shed, is less than 30 feet from her home.

CONCLUSION:

The Applicant is requesting a variance to Section 267-26(C)(1) of the Harford County Code to allow an existing shed to exceed the height of the principal structure by 21 inches in an R3/CDP District. Section 267-26(C)(1) provides:

"Use limitations. In addition to the other requirements of this Part 1, an accessory use shall not be permitted unless it strictly complies with the following:

- (1) In the AG, RR, R1, R2, R3, R4 and VR Districts, the accessory use or structure shall neither exceed fifty percent (50%) of the square footage of habitable space nor exceed the height of the principal use or structure. This does not apply to agricultural structures, nor does it affect the provisions of §267-24, Exceptions and modifications to minimum height requirements. No accessory structure shall be used for living quarters, the storage of contractors' equipment nor the conducting of any business unless otherwise provided in this Part 1."**

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The subject property consists of a relatively small corner lot in a residential area which contains a mix of one-story ranch and two-story colonial-type homes. While there are areas of mature trees and attractive landscaping near the property, the shed itself is placed in a relatively open area and is highly visible from the street and from the neighbor's yard and windows. The roof of the shed is even visible from the street in front of the Applicant's home, looking over the roof of the house.

While the Applicant's property may have some unique qualities, in that it is a corner lot and the topography slopes upward towards the rear of the lot, these qualities actually contribute to the impact that a shed of this height has upon the neighborhood. If the lot was not located on a corner with an upward slope, and if there was no other home directly behind it, the height of the shed in comparison to the home might not be so obvious. However, as the photographs clearly demonstrate, the height of this shed, in this location, does appear to have a detrimental effect or negative impact on the adjacent properties and the surrounding neighborhood.

While the evidence indicates that denial of the variance will cause the Applicant some practical difficulty or hardship (in that the shed will have to be removed or rebuilt to comply with the provisions of the Code), the difficulty is of the Applicant's own making. The Applicant built the shed without first obtaining the required permit or variance, and continued its construction even after he had been made aware that a complaint had been filed regarding the height of the structure. While the height of the shed does provide additional storage space, there does not appear to be any reason why the Applicant could not construct a shed that would meet the height limitations imposed by the Code and still afford the Applicant the storage space he desires.

Accordingly, it is the recommendation of the Hearing Examiner that the requested variance be denied.

Date JUNE 1, 2000

Valerie H. Twanmoh
Zoning Hearing Examiner